



DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF DISABILITY DETERMINATION SERVICES

MEMORANDUM

DATE: August 26, 2004

TO: Commissioner of Social Security

FROM: Alexander Balaban, Supervisor – FAU, V56

NJ DDS

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SUBJECT: Comment of Proposed Regulation No.4, Revised Medical Criteria for Evaluation of Genito-Urinary Impairments

Regarding proposed specific changes to 20 CFR Part 404 Subpart P Appendix 1 LISTING 6 as Part A and LISTING 106 as Part B, the expansion of categories of genito-urinary included pathologies is deemed medically credible in light of current disability claims adjudication experience and in light of ongoing advancement in medical treatment modes of chronic renal and other genito-urinary pathologies.

A simplification of language explaining relevant categories of pathologies in the preface to listings 6.00 and 106.00 in the Blue Book (Disability Evaluation Under Social Security) will aid the DDS claims adjudicative and medical staff along with claimants and their representatives. This is a positive step in meeting various Executive branch federal directives in providing for more easily understood language for all interested parties in the Social Security disability process.

I believe that the elimination of specific language in reference to listing 6.02A, the parenthetical statement, “necessitated by irreversible renal failure” – is a miscalculation. A particular claimant can be afflicted with several acute renal failures due to metabolic, TSS, infections, anemia, etc. If this episodic crisis lasted for at least a 12 months period then DDS adjudicative/physician staff might evaluate the disability claim as medically equaling the listing 6.02A. SSA needs to establish a clear path of language for this listing as it is one which demands very clear documentation with the establishment of a medically determinable impairment backed by objective signs, symptoms, and laboratory findings including a properly completed HCFA-2728 form indicating end-stage renal disease. In fact, this term – ESRD is customarily used by medical providers including

treating/examining/consultative sources to designate a renal-based condition necessitating chronic hemodialysis or peritoneal dialysis. Instead of a pure elimination of a directional phrase, it would be best to substitute the currently posted phrase, "necessitated by irreversible renal failure" to "necessitated end-stage renal disease process". This would represent ideal programmatic language.

In terms of eliminating the adjective "severe" from listing 6.02C1 to simply bone pain, it could cause confusion when evaluating duration of signs and symptoms in terms serum creatinine levels being elevated to 4 mg. per deciliter(100ml.) or greater or reduction of creatinine clearance to 20 ml. per minute(29 liters/24 hours) or less. The DDS adjudicative/physician team might have to choose between medically meets criteria and medically equals criteria more frequently and weigh the issue of credibility of claimant's symptoms more than the medical documentation itself. Furthermore, there is simply no specific demand for this modification in this medical listing as pain - unspecified is never a basis for an allowance under SSA disability guidelines. However, severe pain as fully documented by medical and lay evidence can be.

Regarding Part B Listings of Impairments proposal for inclusion of listings: 106.07 A-C, I believe that a listing D should be added stipulating (Any anatomical congenital malformation of a genito-urinary organ(s) which markedly limits the adaptive functional capabilities of the child) - to complete all medical possibilities.

Sincerely,



Alexander Balaban

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